

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 517

Introduced by Senator Lowenthal
(Principal coauthor: Senator Steinberg)
(Coauthor: Senator DeSaulnier)

February 17, 2011

An act to amend Section 13975 of, and to add Section 13976.1 to, the Government Code, and to amend Sections 185020 and 185024 of the Public Utilities Code, relating to high-speed rail.

LEGISLATIVE COUNSEL'S DIGEST

SB 517, as amended, Lowenthal. High-Speed Rail Authority.

Existing law creates the High-Speed Rail Authority in state government with specified powers and duties relative to development and implementation of a high-speed train system. The authority is composed of 9 members, including 5 members appointed by the Governor.

Existing law creates the Business, Transportation and Housing Agency, which consists of various state agencies, including the Department of Transportation.

This bill would place the High-Speed Rail Authority within the Business, Transportation and Housing Agency. The bill would provide for the Secretary of Business, Transportation and Housing to serve on the authority as a nonvoting, ex officio member. The bill would require the secretary to propose an annual budget for the authority upon consultation with the authority. The bill would require the members of the authority appointed by the Governor to be appointed with the advice

and consent of the Senate. The bill would provide for the members that are appointed to have specified background or experience, as specified.

Existing law provides that the terms of authority members expire every 4 years on December 31.

This bill would vacate the membership of the authority and provide for the appointment or reappointment of members as of January 1, 2012, for staggered terms, as specified. This bill would thereafter provide that the terms expire every 4 years on December 31.

Existing law provides for the authority to appoint an executive director to serve at the pleasure of the authority and who is exempt from civil service.

This bill would provide that the executive director is subject to appointment with the advice and consent of the Senate. The bill would provide that an employment agreement for the executive director shall be agreed to but not executed until Senate confirmation.

This bill would enact various conflict-of-interest provisions applicable to members of the authority and its staff, as specified, and would prohibit a person from serving on the authority in certain circumstances.

This bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13975 of the Government Code is
2 amended to read:
3 13975. The Business and Transportation Agency in state
4 government is hereby renamed the Business, Transportation and
5 Housing Agency. The agency consists of the Department of
6 Alcoholic Beverage Control, the Department of the California
7 Highway Patrol, the Department of Corporations, the Department
8 of Housing and Community Development, the Department of
9 Motor Vehicles, the Department of Real Estate, the Department
10 of Transportation, the Department of Financial Institutions, the
11 Department of Managed Health Care, the High-Speed Rail
12 Authority, and the Board of Pilot Commissioners for the Bays of
13 San Francisco, San Pablo, and Suisun; and the California Housing
14 Finance Agency is also located within the Business, Transportation
15 and Housing Agency, as specified in Division 31 (commencing
16 with Section 50000) of the Health and Safety Code.

1 SEC. 2. Section 13976.1 is added to the Government Code, to
2 read:

3 13976.1. The Secretary of Business, Transportation and
4 Housing shall propose an annual budget for the High-Speed Rail
5 Authority upon consultation with the authority.

6 SEC. 3. Section 185020 of the Public Utilities Code is amended
7 to read:

8 185020. (a) There is in the Business, Transportation and
9 Housing Agency the High-Speed Rail Authority.

10 (b) (1) The authority is composed of 10 members as follows:

11 (A) Five members appointed by the Governor, with the advice
12 and consent of the Senate. Of the members appointed by the
13 Governor, one shall be an engineer with experience in the planning
14 and design of large transportation infrastructure projects; one shall
15 be an economist with background and experience in the field of
16 transportation economics; one shall have background and
17 experience in the field of environmental protection or the study of
18 ecosystems; one shall have expertise in project financing; and one
19 shall be an attorney with experience in dealing with the legal issues
20 associated with procurement strategies and construction issues
21 associated with large, ~~one-of-a-kind~~ infrastructure projects.

22 (B) Two members appointed by the Senate Committee on Rules,
23 one of whom shall represent organized labor.

24 (C) Two members appointed by the Speaker of the Assembly,
25 one of whom shall represent organized labor.

26 (D) The Secretary of Business, Transportation and Housing,
27 who shall be a nonvoting, ex officio member.

28 (2) For the purposes of making appointments to the authority,
29 the Governor, the Senate Committee on Rules, and the Speaker of
30 the Assembly shall take into consideration geographical diversity
31 to ensure that all regions of the state are adequately represented.

32 (c) Except as provided in subdivision (d), and until their
33 successors are appointed, members of the authority shall hold
34 office for terms of four years. A vacancy shall be filled by the
35 appointing power making the original appointment, by appointing
36 a member to serve the remainder of the term.

37 (d) (1) On January 1, 2012, the terms of all persons who are
38 then members of the authority shall expire, but those members
39 may continue to serve until they are reappointed or until their
40 successors are appointed. Appointing powers may designate

1 appointees to fill the positions to be vacated on January 1, 2012,
2 prior to that date, and the Senate may act to confirm appointees of
3 the Governor prior to that date. In order to provide for evenly
4 staggered terms, persons appointed or reappointed to the authority
5 on or after January 1, 2012, shall be appointed to initial terms to
6 expire as follows:

7 (A) Of the five persons appointed by the Governor, one shall
8 be appointed to a term which expires on December 31, 2012, one
9 shall be appointed to a term which expires on December 31, 2013,
10 one shall be appointed to a term which expires on December 31,
11 2014, and two shall be appointed to terms which expire on
12 December 31, 2015.

13 (B) Of the two persons appointed by the Senate Committee on
14 Rules, one shall be appointed to a term which expires on December
15 31, 2012, and one shall be appointed to a term which expires on
16 December 31, 2014.

17 (C) Of the two persons appointed by the Speaker of the
18 Assembly, one shall be appointed to a term which expires on
19 December 31, 2013, and one shall be appointed to a term which
20 expires on December 31, 2015.

21 (2) Following expiration of each of the initial terms provided
22 for in this subdivision, the term shall expire every four years
23 thereafter on December 31.

24 (e) Members of the authority are subject to the Political Reform
25 Act of 1974 (Title 9 (commencing with Section 81000)).

26 (f) From among its members, the authority shall elect a
27 chairperson, who shall preside at all meetings of the authority, and
28 a vice chairperson to preside in the absence of the chairperson.
29 The chairperson shall serve a term of one year.

30 (g) Five voting members of the authority constitute a quorum
31 for taking any action by the authority.

32 (h) (1) The members of the authority shall have an affirmative
33 duty to carry out the terms and conditions of the Safe, Reliable
34 High-Speed Passenger Train Bond Act for the 21st Century
35 (Chapter 20 (commencing with Section 2704) of Division 3 of the
36 Streets and Highways Code).

37 (2) While serving on the authority, the members shall exercise
38 their independent judgment as officers of the state on behalf of the
39 interests of the entire state in furthering the purposes of this
40 division.

1 (3) No person shall be a member of the authority if the person
2 holds any other elected or appointed public office, except as
3 otherwise provided in subparagraph (A) or (C) of paragraph (1)
4 of subdivision (a). No person shall be a member of the authority
5 if the person has, during the two years prior to appointment as a
6 member, received any substantial portion of his or her income
7 directly or indirectly from any firm that is under contract with the
8 authority at the time of appointment or that supplies or
9 manufactures rolling stock or other equipment particular to, or
10 essentially particular to, construction and implementation of a
11 high-speed rail system.

12 (4) A member of the authority shall not be employed by any
13 contractor or supplier of the authority or any firm that supplies or
14 manufactures rolling stock or other equipment particular to, or
15 essentially particular to, construction and implementation of a
16 high-speed rail system within two years after he or she ceases to
17 be a member of the authority.

18 (5) A member of the authority shall not participate in decisions
19 of, formulating recommendations of, or rendering advice to the
20 authority if the member, his or her spouse, minor child, or partner,
21 to the best of the member's knowledge, has had a direct or indirect
22 financial interest in the matter that is the subject of the decision,
23 recommendations, or advice within two years of his or her
24 appointment.

25 SEC. 4. Section 185024 of the Public Utilities Code is amended
26 to read:

27 185024. (a) The authority shall appoint an executive director,
28 exempt from civil service, who shall serve at the pleasure of the
29 authority, to administer the affairs of the authority as directed by
30 the authority. The executive director shall be appointed with the
31 advice and consent of the Senate.

32 (b) For purposes of managing and administering the ongoing
33 work of the authority in implementing the high-speed train project,
34 the Governor, upon the recommendation of the executive director,
35 may appoint up to six additional individuals, exempt from civil
36 service, who shall serve at the pleasure of the executive director.
37 Pursuant to this subdivision, the Governor may appoint persons
38 only for the following positions:

39 (1) Chief program manager.

40 (2) Up to three regional directors.

1 (3) Chief financial officer.

2 (4) Director of risk management and project controls.

3 (c) The compensation of the executive director and the additional
4 persons authorized by subdivision (b) shall be established by the
5 authority, and approved by the Department of Personnel
6 Administration, in an amount that is reasonably necessary, in the
7 discretion of the authority, to attract and hold a person of superior
8 qualifications. The authority shall cause to be conducted, through
9 the use of independent outside advisers, a salary survey to
10 determine the compensation for the positions under this
11 subdivision. The Department of Personnel Administration may,
12 in its discretion, accept a previously completed salary survey that
13 meets the requirements of this subdivision, and shall review the
14 methodology used in the survey. The salary survey shall consider
15 both of the following:

16 (1) Other state, regional, and local transportation agencies that
17 are most comparable to the authority and its responsibilities.

18 (2) Other relevant labor pools.

19 The compensation set by the authority shall not exceed the
20 highest comparable compensation for a position of that type, as
21 determined by the salary survey. Based on the salary survey, these
22 positions shall be paid a salary established by the authority and
23 approved by the Department of Personnel Administration.

24 (d) The employment agreement of the executive director may
25 be agreed to by the authority but shall not be executed until the
26 appointment is confirmed by the Senate. With respect to the
27 incumbent executive director as of the date the act amending this
28 section in the 2011–12 Regular Session of the Legislature becomes
29 operative, an extension or modification of the employment
30 agreement pertaining to that person shall not be entered into by
31 the authority unless the appointment of that person is submitted
32 to and confirmed by the Senate.

33 (e) The executive director may, as authorized by the authority,
34 appoint necessary staff to carry out the provisions of this part.

35 (f) No person shall be an employee or contract employee of the
36 authority if the person has, during the two years prior to
37 appointment as an employee or contract employee, received any
38 substantial portion of his or her income directly or indirectly from
39 any firm that is under contract with the authority at the time of
40 appointment or that supplies or manufactures rolling stock or other

1 equipment particular to, or essentially particular to, construction
2 and implementation of a high-speed rail system.
3 (g) An employee of the authority shall not participate in
4 decisions of, formulating recommendations of, or rendering advice
5 to the authority if the employee, his or her spouse, minor child, or
6 partner, to the best of the employee's knowledge, has had a direct
7 or indirect financial interest in the matter that is the subject of the
8 decision, recommendations, or advice within two years of his or
9 her appointment.

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